Missouri Court of Appeals
Southern District

In Division

K.A.C. by and through,
ASHLEY ACOSTA, NEXT FRIEND,
and

MICHAEL CRITES, JR.,

Appellants,

v.

MISSOURI STATE HIGHWAY
PATROL, ET AL.,

Respondents.

No. SD38943

Filed: January 12, 2026

APPEAL FROM THE CIRCUIT COURT OF CRAWFORD COUNTY

Honorable Michael J. Randazzo, Judge

AFFIRMED

K. A. C., by and through Ashley Acosta, Next Friend, and Michael Crites, Jr., ("Appellants"), appeal from the judgment granting the Missouri State Highway Patrol's ("MSHP") motion for summary judgment. Appellants sought recovery from MSHP for a motor vehicle collision between a pursued driver and a third party. We conclude that Appellants did not produce facts proving that MSHP's actions were the proximate cause

of the collision. Since proximate cause is a necessary element of Appellants' case, we affirm.

Factual and Procedural Background

Appellants brought a two-count petition against MSHP and Trooper Donald Hedrick ("Trooper Hedrick") under the Missouri wrongful death statute, § 537.080.[1] The petition alleged that on August 24, 2019, Connor Crites ("Decedent") was killed when a vehicle driven by Ronald Searle ("Driver") crossed into the path of Decedent's motorcycle.[2] Trooper Hedrick was in a vehicular pursuit of Driver at the time, but Trooper Hedrick's vehicle was not involved in the collision. Plaintiffs alleged Trooper Hedrick's pursuit was negligent and was a direct and proximate cause of Decedent's death.

MSHP filed a Motion for Summary Judgment (the "Motion") which alleged that Appellants could not, as a matter of law, establish the required element of proximate

[1] All statutory references are to RSMo (2016). All rule references are to Missouri Court Rules (2025).

[2] Missouri has waived sovereign immunity for: "Injuries directly resulting from the negligent acts or omissions by public employees arising out of the operation of motor vehicles or motorized vehicles within the course of their employment[.]" § 537.600.1(1). The language "directly resulting from" in § 537.600 corresponds to proximate cause. *See* ***Stanley***, 995 S.W.2d at 488; ***State ex rel. Missouri. Highway and Transp. Comm'n v. Dierker***, 961 S.W.2d 58, 60 (Mo. banc 1998).

cause[3]. In support of the Motion, MSHP filed a statement of uncontroverted material facts ("SUMF") consisting of 14 paragraphs as follows:

1. On August 24, 2019, Trooper Jeremy Sanders initiated a traffic stop of Driver for repeated lane violations.
2. Driver fled from that traffic stop.
3. While fleeing from that traffic stop, Driver passed the patrol vehicle of Trooper Hedrick.
4. After Driver passed his vehicle while fleeing, Trooper Hedrick initiated a vehicular pursuit of Driver.
5. Trooper Hedrick's emergency lights and sirens were activated during his pursuit of Driver.
6. Trooper Hedrick's pursuit of Driver lasted approximately 1.3 miles in distance.
7. Trooper Hedrick's pursuit of Driver lasted approximately sixty (60) seconds in duration.
8. MSHP dispatch was apprised of Trooper Hedrick's pursuit of Driver.
9. During his pursuit of Driver, Trooper Hedrick reached a maximum speed of one-hundred and one (101) miles per hour.
10. While being pursued by Trooper Hedrick, Driver veered into the lane of oncoming traffic.
11. Driver struck Decedent's motorcycle head-on in the wrong lane of traffic while being pursued by Trooper Hedrick.
12. Decedent died as a result of injuries sustained in that collision.
13. Trooper Hedrick was not involved in that collision.
14. Trooper Hedrick pursued Driver in order to lessen the danger Driver presented to the public.

(Quotation modified).

Appellants' response admitted paragraphs 1-12 of the SUMF. With respect to paragraph 13, Appellants admitted that Trooper Hedrick's vehicle did not strike

3 Count 2, which pertained to Trooper Hedrick, was voluntarily dismissed by Appellants prior to their response to the Motion. The remaining count sought to hold MSHP responsible for Trooper Hedrick's actions under the doctrine of *respondeat superior*.

Decedent's motorcycle. However, they denied that Trooper Hedrick's pursuit "was not a contributing cause of the collision and [Decedent's] death." In regard to paragraph 14, Appellants admitted that Trooper Hedrick testified that he pursued Driver to lessen the danger Driver presented to the public. However, Appellants "denied that the pursuit which was in violation of the MSHP pursuit policy lessened the danger to the public." In support of their denials in paragraphs 13 and 14, Appellants pointed to their Statement of Additional Material Facts ("Additional SUMF").

Appellants' Additional SUMF contained 27 paragraphs as follows:

> 1. MSHP General Order 41-03-1840 ("the General Order"), sets forth techniques, procedures, and guidelines for vehicular pursuits. Its purpose was to establish policy and procedure governing vehicular pursuits. The General Order was in effect on August 24, 2019.
> 2. The policy of the General Order was to protect lives and property by making reasonable efforts to apprehend violators while complying with statutes regulating the operation of emergency vehicles and by discontinuing pursuit when the risk to public safety outweighs the need for an immediate apprehension.
> 3. The initiation or continuation of a pursuit is authorized only when the necessity of an immediate apprehension of a suspect outweighs the level of risk associated with the pursuit.
> 4. One circumstance and condition to consider before initiating a pursuit and during a pursuit to determine if the pursuit should be continued is the likelihood that the driver would slow or drive more reasonably if the pursuit were discontinued as demonstrated by the suspect driving at higher speeds or in an increasingly hazardous manner after the member initiated the pursuit or as the pursuit continues.
> 5. It is important to know the conduct of the driver being pursued before the pursuit in evaluating the effect of terminating the pursuit.
> 6. Trooper Sanders followed Driver for a period before pulling him over. Dash cam from Trooper Sanders' vehicle starts at 5:40:45 pm and he pulled Driver over at 5:44:39. Thus he followed Driver for at least 3 minutes and 54 seconds before pulling him over.
> 7. Before Trooper Sanders stopped Driver, Driver was driving non-aggressively; he did not exceed posted speed limits; he had not

committed a felony before the stop; he had not threatened anyone with bodily harm; he had no criminal record; and he had not put any member of the public at risk of a crash through the operation of his vehicle.

8. Trooper Sanders initiated the pursuit of Driver and within 30 seconds Trooper Hedrick became the primary pursuit vehicle.

9. Driver became substantially more aggressive and reckless attempting to flee after initiation of the pursuit by Trooper Sanders.

10. If a suspected intoxicated driver who was originally driving non-aggressively becomes substantially more aggressive and reckless attempting to flee, the member should terminate the pursuit absent other circumstances that necessitate an immediate apprehension.

11. Driver was a suspected intoxicated driver before Trooper Sanders initiated his pursuit and Trooper Hedrick became the primary pursuit vehicle.

12. Trooper Hedrick identified Driver's license plate when Driver passed his vehicle.

13. Trooper Hedrick knew that Driver was a suspected intoxicated driver when he became the primary pursuit vehicle.

14. There were no other circumstances to immediately apprehend Driver after he fled from the stop.

15. Trooper Sanders was not concerned for his safety when he stopped Driver because he did not call for help.

16. Highway H where Troopers Sanders and Hedrick pursued Driver was windy, hilly, and had blind curves.

17. Data from the U.S. Department of Justice and other authoritative source materials based on empirical evidence show that a suspect who does not know he or she is being pursued will drive in a reasonably safe manner, and suspects who know they are being pursued and drive dangerously will slow down after the police terminate their pursuit.

18. Trooper Johnson, MSHP's Rule 57.03 representative, was involved in dozens of pursuits and has terminated them.

19. Trooper Johnson's experience is that terminating the pursuit may cause the driver to slow or drive more reasonably.

20. Driver more likely appreciated the pursuit because his speed increased.

21. There was no basis for a reasonable expectation that Trooper Hedrick could safely stop Driver before the crash.

22. Speed causes crashes to happen.

23. Trooper Hedrick not driving 100 m.p.h. pursuing Driver would have made the public safer.

24. Trooper Hedrick did nothing to reduce the risk to the public in his pursuit of Driver.

> 25. Troopers Sanders and Hedrick violated the General Order by initiating and continuing their pursuit of Driver because the necessity of an immediate apprehension outweighed the level of risk associated with the pursuit.
>
> 26. Troopers Sanders and Hedrick violated the General Order by initiating and continuing their pursuit of Driver because Driver was a suspected intoxicated driver who was originally driving non-aggressively before the pursuit and there were no other circumstances that necessitated an immediate apprehension.
>
> 27. If Driver had not been pursued after fleeing the stop or if the pursuit had been terminated when Driver passed Trooper Hedrick, then Driver would have ceased driving in a reckless manner after fleeing from the stop and would have avoided the collision.

(Quotation modified).

In response to the Additional SUMF, MSHP admitted the following paragraphs: 1-4, 6, 8, 10-13, 16, and 22. The remaining paragraphs were denied with citation to the record. In all respects, MSHP alleged that all paragraphs of the Additional SUMF were immaterial to the Motion and could not establish proximate causation. The opinions outlined in paragraphs 25-27 were supported by an affidavit of expert witness Michael D. Lyman, a retired Professor Emeritus of Criminal Justice from Columbia College of Missouri ("Expert Witness").

The trial court granted MSHP's Motion finding there were no genuine issues of material fact and that Appellants failed to show Trooper Hedrick's actions were a proximate cause of the collision that resulted in Decedent's death. The trial court relied on the Supreme Court of Missouri's case ***Stanley v. City of Independence***, 995 S.W.2d 485 (Mo. banc 1999), in granting summary judgment. This appeal followed.

Standard of Review

Summary judgment shall be granted if "the motion, the response, the reply and the sur-reply show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law[.]" Rule 74.04(c)(6); ***A.O. v. Lester E. Cox Med. Ctrs.***, 719 S.W.3d 923, 932 (Mo. App. S.D. 2025). Our review of a trial court's decision to grant summary judgment is *de novo*. ***Green v. Fotoohighiam***, 606 S.W.3d 113, 115 (Mo. banc 2020). "Our *de novo* standard of review means that we look at the summary judgment issues presented on appeal as the trial court should have initially under Rule 74.04, and we give no deference to the trial court's ruling." ***A.O.***, 719 S.W.3d at 932 (quoting ***Great Southern Bank v. Blue Chalk Constr., LLC***, 497 S.W.3d 825, 834 (Mo. App. S.D. 2016)). We review the record in the light most favorable to the party against whom summary judgment was entered, and that party is entitled to the benefit of all reasonable inferences. ***Green***, 606 S.W.3d at 116. As detailed in ***Martin Leigh, PC v. Williamson***:

> While we apply *de novo* review to summary judgment, it does not grant an appellant a license to craft arguments free from the constraints of Rule 74.04. Rather, our *de novo* decision on appeal must be in accordance with *all* the requirements of Rule 74.04 and, therefore, must be made in the very same manner the trial court should have applied that rule in the first instance. This means that our review does not consider the entire trial court record but, instead, we *only* look to the facts from the summary judgment record as established through the non-moving party's responses to a motion for summary judgment under the numbered-paragraphs-and-responses framework. Reviewing only this summary judgment record, we must determine whether *uncontroverted* facts established via Rule 74.04(c) paragraphs and responses demonstrate the movant's right to judgment *regardless of other facts or factual disputes*.

A.O., 719 S.W.3d at 932. (quoting ***Martin***, 699 S.W.3d 538, 542 (Mo. App. S.D. 2024)). A defending party is entitled to summary judgment by demonstrating that after an adequate period for discovery, the non-movant cannot produce sufficient evidence to allow the trier of fact to find the existence of any one of the elements of the non-movant's claim. ***Id.*** at 935.

Analysis

Appellants' sole point on appeal alleges the trial court erred in granting summary judgment based on a lack of proximate cause. Appellants allege they established material facts supporting proximate cause in their Additional SUMF by showing: (1) facts that support proximate cause, (2) that Trooper Hedrick violated the General Order and (3) expert testimony showed that, more likely than not, if MSHP Troopers had not pursued Driver, the collision would have been avoided. Despite giving Appellants every appropriate inference under the summary judgment standard, they have not established that Trooper Hedrick's pursuit of Driver was the proximate cause of Decedent's death.

"In an action for negligence, the plaintiff must establish the defendant owed a duty of care to the plaintiff, the defendant breached that duty, and the defendant's breach was causally connected to the plaintiff's injury." ***D.J. by and Through R.J. v. First Student, Inc.***, 707 S.W.3d 581, 586 (Mo. banc 2025). In tort cases, a plaintiff must prove defendant's conduct was an actual cause, also known as cause in fact, of the injury. ***Id.*** Actual causation is a factual question for the jury if sufficient evidence is presented from which a jury could reasonably find the plaintiff's injury was a direct result of the defendant's negligence. ***Id.***

However, once actual causation has been established, the issue becomes one of legal cause, also known as proximate cause. ***Id.*** "[P]roximate cause is a 'legal determination' that presents a question of law for the circuit court." ***Id.*** (quoting ***Poage v. Crane Co.***, 523 S.W.3d 496, 513 (Mo. App. E.D. 2017)).

> To determine the legal issue of proximate cause, a court must determine whether the plaintiff presented evidence that their injuries were a reasonable and probable consequence of the act or omission of the defendant. Proximate cause looks at the scope of foreseeable risk created by the defendant's act or omission. This analysis relies upon hindsight to determine whether the precise manner of a particular injury was a natural and probable consequence of a negligent act.

D.J., 707 S.W.3d at 586 (internal citations and quotations omitted); *see also* ***Stanley***, 995 S.W.3d at 488 ("The general test for proximate cause is whether an injury is the natural and probable consequence of the defendant's negligence."); ***Callahan v. Cardinal Glennon Hosp.***, 863 S.W.2d 852, 865 (Mo. banc 1993).

As noted by the trial court, the Supreme Court of Missouri ruled on similar facts in ***Stanley***, 995 S.W.3d at 486. In ***Stanley***, the plaintiffs sued the city of Independence and a police officer for wrongful death. The officer saw a vehicle matching the description of a vehicle used in an armed robbery. The officer followed the vehicle through an intersection, activated his emergency lights, and gave a "quick yelp" on his siren. The vehicle fled and the officer activated his siren and pursued. The vehicle ran a red stoplight while traveling about 55 miles per hour, moved into the oncoming lane of traffic, and the officer continued the pursuit. The fleeing vehicle crossed an intersection and hit another vehicle, killing the occupants. The pursuit lasted 45 seconds. ***Id.***

The plaintiffs in ***Stanley*** alleged the officer acted negligently and that the pursuit violated the department's policy on car chases. ***Id.*** at 488. Specifically, the plaintiffs claimed "the officer's decision to initiate and continue the high-speed chase was negligent because the pursuit occurred during rush hour and in a residential neighborhood." ***Id.*** at 487. The trial court in ***Stanley*** granted summary judgment in favor of the defendants. On appeal, our Supreme Court noted that in order to recover damages, a defendant's negligence must be the proximate cause of the plaintiff's injury. ***Id.*** at 488. "The general test for proximate cause is whether an injury is the natural and probable consequence of the defendant's negligence." ***Id.*** Our Supreme Court importantly held that "[p]roximate cause cannot be based on pure speculation and conjecture." ***Id.*** The Court went on to explain:

> The suspects in the van made the initial decision to flee, sped through red lights and in the wrong lane of traffic, and collided with the decedents. Any negligence by the officer is connected to the plaintiffs' injury solely through the conduct of the fleeing van. Thus, the only conceivable causal link between the officer's alleged negligence and the collision is the conjectural effect of his pursuit on the pursued vehicle. … There is nothing other than speculation to reach a conclusion that the officer's conduct was a "cause" of the collision. Put another way, there is no way to tell whether the collision would have been avoided if the officer had abandoned the pursuit after initiating it. Thus, there is no factual basis to support a finding of proximate cause.

Id. (citation modified). Accordingly, summary judgment was affirmed. Subsequent to ***Stanley***, the appellate courts of this state have addressed similar situations and affirmed summary judgment. *See* ***Moore v. City of O'Fallon***, 681 S.W.3d 715, 723 (Mo. App. E.D. 2023) (1.5 mile pursuit of approximately 80 miles per hour); ***Harris v. City of St. Louis***, 658 S.W.3d 49 (Mo. App. E.D. 2022); ***Throneberry v Missouri State Highway***

Patrol, 526 S.W.3d 198 (Mo. App. W.D. 2017) (120 second pursuit reaching 91 miles per hour); ***Dilley v. Valentine***, 401 S.W.3d 544 (Mo. App. W.D. 2013) (less than 120 second pursuit at speeds of 55 miles per hour).

Here, Appellants contend the trial court read ***Stanley*** too broadly and that this case is factually similar to ***Moyer v. St. Francois County Sheriff Dept.***, 449 S.W.3d 415 (Mo. App. E.D. 2014). We disagree. ***Moyer*** involved a situation where a deputy pulled over a vehicle with stolen license plates. ***Id.*** at 416. After being asked to step out of the vehicle, the driver fled the scene. A high-speed chase ensued that lasted as long as ten miles and reached speeds of 120 miles per hour. The chase ended when the suspect's vehicle collided with the plaintiff's vehicle. Under those facts, the Eastern District held in a 2-1 decision that the plaintiffs made a case of proximate cause sufficient to survive a summary judgment motion. ***Id.*** at 418-19.

The Western District questioned the reasoning of ***Moyer*** in ***Throneberry***, 526 S.W.3d at 211-12. In ***Throneberry***, a state trooper pursued a vehicle traveling 91 miles per hour for over two miles. The suspect previously committed a carjacking and evaded the vehicular pursuits of other troopers. ***Id.*** at 201-02. As here, the trial court granted summary judgment, relying on ***Stanley***. On appeal, the appellant pointed to ***Moyer***, contending that their facts were more closely aligned with ***Moyer*** than ***Stanley***. The Eastern District rejected this assertion, finding that "[a]pplied literally, *Moyer* emasculates the holding in *Stanley*, as every police pursuit would be subject to the claim that had the pursuit been abandoned, the fleeing suspect would eventually have stopped driving recklessly." ***Id.*** at 211. Further, the Court stated that the holding in ***Stanley*** "is not

susceptible to variance based on the speed, distance, or duration of the pursuit." ***Id.*** at 212. We agree with the Western District's discomfort with ***Moyer***. We also note that the Eastern District distinguished ***Moyer*** in ***Harris*** and ***Moore***. *See* ***Harris***, 658 S.W.3d at 56-57 and ***Moore***, 681 S.W.3d at 723.

We are unpersuaded by Appellants' argument and are bound to follow the most recent controlling decision of our Supreme Court, which is ***Stanley***. *See* ***Boles v. City of St. Louis***, 690 S.W.3d 592, 606 (Mo. App. E.D. 2024). Regardless, the facts in the instant case differ from those in ***Moyer*** and are more aligned to those in ***Stanley***, ***Moore***, ***Harris***, ***Throneberry*** and ***Dilley***.

Appellants also attempt to distinguish ***Stanley*** through the use of expert testimony. Specifically, Appellants argue they "produced the very evidence the *Stanley* Court required and found lacking: proof that the accident would have – more likely than not – been avoided if the Troopers had abandoned the pursuit." In support of this argument, Appellants point to the affidavit of Expert Witness where he testified that Trooper Hedrick violated the terms of the General Order in initiating and continuing the pursuit of Driver. Expert Witness also opined that within a "reasonable degree of professional certainty":

> based on my review of the record and my education, training and experience in policing in this matter and under the circumstances known in this case, the vehicle driven by Driver being pursued by Trooper Hedrick would have slowed down and been operated in a less reckless manner if the pursuit had not been initiated as mandated by the General Order, or terminated at the point Driver passed Trooper Hedrick. Doing so would have likely resulted in Driver slowing and having more control over his vehicle on Highway H and the avoidance of the collision between Driver's vehicle and Decedent.

(Quotation modified).

Appellants allege this testimony is sufficient to establish proximate cause and distinguish ***Stanley***. However, this argument falls short. The issue of expert testimony in pursuit cases was directly addressed in ***Frazier v. City of Kansas City***, 467 S.W.3d, 327 (Mo. App. W.D. 2015). In ***Frazier***, an expert witness for the plaintiff testified that a police officer violated policies of vehicle pursuit, "caused" the collision, and caused the driver "to drive in the manner in which he drove for the entirety of the pursuit until the crash." ***Id.*** at 336. The trial court in ***Frazier*** concluded the expert's opinion was based on "conjecture and speculation." Given that the determination of whether proximate cause exists is a judicial function, we reach the same conclusion here. *See* ***id.*** at 337 (citing ***Kilmer v. Mun***, 17 S.W.3d 545, 552, n.19 (Mo. banc 2000)).

Conclusion

Appellants' point is denied. The judgment of the trial court is affirmed.

BRYAN E. NICKELL, J. – OPINION AUTHOR

JENNIFER R. GROWCOCK, C.J. – CONCURS

DON E. BURRELL, J. – CONCURS